



STATE BOARD OF EQUALIZATION

December 28, 1964

[O]
XXX – XXrd Avenue
---, California XXXXX

Attention: Mr. [W]
Office Manager

C-XXXXXX
XX-XXXXXX

Gentlemen:

This is in reply to your letter of December 9, 1964, in which you inquire if a carrier must have a California Public Utilities Commission certificate in order to be considered a common carrier as that term is used in ruling 2205.

In our opinion, the term common carrier has essentially the same meaning as the definition of common carrier contained in § 2168 of the Civil Code:

“Everyone who offers to the public to carry persons, property, or messages, excepting only telegraphic messages, is a common carrier of whatever he thus offers to carry.”

The offering to the public is the prime distinguishing characteristic between private or contract carriers and common carriers. It is also our opinion that, in order to be considered a common carrier for the purposes of ruling 2205, the carrier should clearly have that status under the laws of the jurisdiction to which it is subject, although it need not necessarily be subject to the rules and regulations of the California Public Utilities Commission. Thus, if a carrier is considered a common carrier under the rules and regulations of the Interstate Commerce Commission, it will be considered a common carrier under ruling 2205.

Mr. [W]
Office Manager

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715.0460

There is no reciprocal provision in the Bradley-Burns Uniform Local Sales and Use Tax Law which would change the rate of the tax paid by a carrier because of a similar provision in another state's tax law.

If you have any further questions, please do not hesitate to write to us.

Very truly yours,

E. H. Stetson
Tax Counsel

cc: Oakland – District Administrator

PRD:fb